

Department of Permits and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
Baltimore County, Maryland

In the Matter of

Civil Citation No.73238

John A. & Jan G. Braun  
Sally S. Goldsmith

1861 Circle Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on August 4, 2010 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 408B, failure to cease illegal rooming and boarding house on residential property zoned DR 1 known as 1861 Circle Road, 21204.

On July 14, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jeff Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$7,000.00 (seven thousand dollars).

The following persons appeared for the Hearing and testified: Jan Braun, Respondent, with daughter Jordon Braun; neighbors Margaret Webster, William Tate, Janet McHugh, and, Jeffrey Radcliffe, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. This Citation was issued without prior Correction Notice pursuant to the Department's adopted criteria, to a property owner who has consistently violated the same code within the year or consecutive years. BCC Section 3-6-205. A civil penalty of \$500.00 was billed to Respondents on July 15, 2010 after they failed to correct the zoning violation, pursuant to a Final Order dated April 26, 2010 enforcing Civil Citation No. 73238.

B. At the beginning of this Hearing, this Hearing Officer disclosed that she lives in a different area of Ruxton and is a member of the Ruxton Riderwood Lake Roland Area Improvement Association, which is the community association for the neighborhood; stated that she believes she can render an impartial decision in this case; and asked whether any party or participant has a concern about her participation. The Department's representatives and the Respondent said they did not have an objection.

C. Inspector Jeffrey Radcliffe testified that he re-inspected this property and found that no changes have been made since the prior enforcement action. There are two large houses on the property. The Respondents, the Braun family, live in one house. The other house is divided into two residences, and five unrelated adult tenants are living in the front of the house and another five unrelated adult tenants are living in the rear of the house. Each of the ten tenants pays \$500.00 per month in rent. He further testified that the Respondents just made application in August 2010 for a zoning variance to obtain a boardinghouse permit.

D. Margaret Webster is a neighbor. She testified that Respondents will face significant hurdles if they seek a boardinghouse permit, and testified that the neighbors living on Circle Road will strongly oppose an application. She testified that nearly all neighbors on Circle Road have signed a petition expressing opposition, and provided a list and a map showing neighbors who have signed the petition. She further testified that because there are two units in the structure she believes it will be ineligible for a rooming- and boarding-house permit.

E. William Tate is a neighbor. He testified that he is an adjacent property owner, and testified that neighbors have tried to work with the Brauns on their wishes for the property but that work on a third, smaller house is unfinished and that he is very concerned about the bad effect on the neighborhood.

F. Respondent Jan Braun testified that she received the previous Final Order in May and that she promptly contacted County agencies to apply for permits as directed. She provided a timeline of her activities including making an appointment with the zoning office and posting a sign. She got a letter in June notifying her of a special hearing but was then sent to meet with zoning office staff for preliminary review. She has an August 16 date for a zoning hearing. She stated that she would get the tenants to leave if necessary. She stated that she thought she had complied with the previous Final Order by applying for permits.

G. Margaret Webster testified that Respondents applied for a minor subdivision two and a half years ago but did not follow through with the application, and further testified that a legal subdivision cannot currently be obtained. She testified that the neighbors want the Brauns to remain in their home and in the neighborhood but want them to follow the rules. Janet McHugh is a neighbor. She testified that Respondents are sophisticated real estate developers. She testified that Respondents do have a real hardship from being unable to sell the house, but that they created some of the hurdles they are facing and should not be permitted to use the house as a boardinghouse.

H. Baltimore County's zoning regulations restrict the number of unrelated adults who can occupy a house for compensation. Because this is not the owner's domicile, the house can only be occupied by two unrelated adults absent a permit for a boarding- or rooming-house. BCZR Section 101.1; Section 408B. Based on the evidence presented, an illegal boardinghouse with more than two tenants continues to operate at this location, with approximately ten tenants.

I. The prior Final Order was issued on April 26, 2010 and gave Respondents the opportunity to avoid a civil penalty if the violations were corrected by July 1, 2010, "either by obtaining required permits for apartment conversion or rooming-boarding house, or by reducing the number of tenants in the property to the number permitted by zoning regulations." Respondents made contacts

with County agencies but did not obtain a boardinghouse permit or obtain a permit for apartment conversion. The number of tenants has not been reduced. Property owners are required to obtain such permits prior to installing tenants. This Citation will be enforced.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$7,000.00 (seven thousand dollars).

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 11<sup>th</sup> day of August 2010

Signed: ORIGINAL SIGNED  
Margaret Z. Ferguson  
Baltimore County Hearing Officer

**NOTICE TO RESPONDENT:** The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.